



Paper No. 7

STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
D-377/AP6D
100 ABBOTT PARK ROAD
ABBOTT PARK, IL 60064-3500

COPY MAILED

FEB 07 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Roch et al.
Application No. 09/824,178
Filed: April 2, 2001
Attorney Docket No. 6024.US.C1

This is a decision on the petition under 37 CFR 1.137(b), filed on December 21, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The application was filed on April 2, 2001. On May 1, 2001, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers ("5/1/01 Notice"), stating that substitute drawings in compliance with the margins requirements of 37 CFR 1.84 must be timely submitted to avoid abandonment of this application.¹ An extendable 2-month period was provided for submitting the corrected drawings.² The corrected drawings were not filed, and no extension of time was obtained. Accordingly, this application became abandoned on July 2, 2001 for failure to timely submit a proper reply to the 5/1/01 Notice.³ This petition precedes the

¹ MPEP section 507 (Aug. 2001) (To implement 18-month pre-grant publication of patent applications, the PTO has revised its drawing review process such that drawings in new utility/plant applications filed on or after 11/29/00, which is the case here, are initially reviewed by the OIPE to see if they can be effectively scanned and adequately reproduced. If the drawings are not acceptable, OIPE will object to the drawings, and notify the applicant to timely submit acceptable drawings to ensure timely publication of the application . . . [C]orrected drawings must be [timely] filed . . . to avoid abandonment of the application.).

Also, 37 CFR 1.85(a) (A utility/plant application will not be placed on the files for examination until objections to the drawings have been corrected); and MPEP section 608.02(a) (Aug. 2001) (OIPE will not release applications to the Technology Centers [for examination] until acceptable drawings are filed . . . If a drawing is not timely received [by the PTO] in reply to a notice . . . , the application becomes abandoned for failure to reply.).

² The 2-month period for reply to a Notice to File Corrected Application Papers, similar to that in a Notice to File Missing Parts, is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions under 37 CFR 1.136(a) of up to 5 months are permitted. See MPEP 710.02(d) (Aug. 2001). In the instant case, the maximum extendable reply period would expire on 12/1/01 if the maximum 5-month extension of time had been obtained.

³ 37 CFR 1.135 (If an applicant . . . fails to reply within the time period provided . . . , the application will become abandoned . . .).

mailing of a notice of abandonment.

The instant petition encloses a set of corrected drawings in reply to the 5/1/01 Notice, and an authorization to charge the \$1,280 petition fee to Deposit Account No. 01-0025. The petition is thus granted. The petition fee has been charged as authorized.

This application is being returned to OIPE for further processing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.



Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy